IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

Crl.MC.No. 1694 of 2007()

C.R.NO.11/07 OF EXCISE RANGE OFFICE, MALLAPPALLY, PATHANAMTHITTA DISTRICT.

PETITIONER: ACCUSED NOS. 2 AND 3

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1. GIRISH KUMAR, AGED 28 YEARS,
   S/O.GOVINDANKUTTY, PATHALIL HOUSE,
   POOTHAKUZHI P.O., PAMPADI, KOTTAYAM DISTRICT.

2. ANANDAVALLI, W/O.PONNAPPAN,
   PARAYIL HOUSE, MUNDIYAPPALLY P.O.,
   KAVIYOOR VILLAGE, THIRUVALLA, PATHANAMTHITTA
   DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED
BY EXCISE INSPECTOR, EXCISE RANGE OFFICE,
MALLAPPALLY, PATHANAMTHITTA DISTRICT,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1694 OF 2007

Dated this the 4th day of June, 2007

ORDER

The petitioners are allegedly licensees in respect of a toddy shop. The alleged contraband article – toddy allegedly mixed with spirit was allegedly taken into possession from the said toddy shop. The sample of the seized contraband article has been sent to the Forensic Science Laboratory, Trivandrum. Report of the Forensic Science Laboratory is awaited.

2. The grievance of the petitioners is that in the meantime, Crime No.11/07 of Mallappally Excise Range Office has been registered. This, they contend, is in violation of the very specific provisions and the Rule 8 (3) of the Kerala Abkari Shops Disposal Rules 2002. The petitioners contend that the premature registration of the crime exposes them to adverse actions like suspension, cancellation of licence etc. The registration of the crime is premature. The petitioners should

not be visited with any adverse consequence because of such premature registration of the crime. If the report of the expert is against the petitioners, appropriate action may be taken. But till then, there is no justification for any action. This, in short, is the prayer of the learned counsel for the petitioners now, though other reliefs are also claimed in the Crl.M.C.

3. The learned Public Prosecutor, after taking instructions, submits that no action will be taken against the petitioners before the report of the chemical examination from the Forensic Science Laboratory is received. The learned Public Prosecutor further undertakes that no adverse consequence whatsoever will take place or be initiated against the petitioners until such report is received and unless such report justifies such action.

4. The submission of the learned Public Prosecutor is accepted. The stand taken by the prosecution does appear to me to be fair. It is made clear that notwithstanding the registration of Crime No.11/07, no further proceedings shall be taken on the basis of Crime NO.11/07 and the petitioners shall not be visited with any adverse consequence on the basis of such

registration of the crime.

5. This Crl.M.C. is accordingly allowed to the above extent.

6. Hand over a copy of this order to the learned counsel for the petitioners.

Sd/-

(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge